

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 37.2-1007 of the Code of Virginia, relating to appointment of guardian*
3 *or conservator.*

4 [H 1657]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 37.2-1007 of the Code of Virginia is amended and reenacted as follows:**

8 § 37.2-1007. Hearing on petition to appoint.

9 The respondent is entitled to a jury trial, upon request, and may compel the attendance of witnesses,
10 present evidence on his own behalf, and confront and cross-examine witnesses.11 The court or, if one is requested, the jury shall hear the petition for the appointment of a guardian or
12 conservator. The hearing may be held at such convenient place as the court directs, including the place
13 where the respondent is located. The proposed guardian or conservator shall attend the hearing except
14 for good cause shown and, where appropriate, shall provide the court with a recommendation as to
15 living arrangements and a treatment plan for the respondent. The respondent is entitled to be present at
16 the hearing and all other stages of the proceedings. The respondent shall be present if he so requests or
17 if his presence is requested by the guardian ad litem. Whether or not present, the respondent shall be
18 regarded as having denied the allegations in the petition.19 In determining the need for a guardian or a conservator and the powers and duties of any needed
20 guardian or conservator, consideration shall be given to the following factors: the limitations of the
21 respondent; the development of the respondent's maximum self-reliance and independence; the
22 availability of less restrictive alternatives, including advance directives and durable powers of attorney;
23 the extent to which it is necessary to protect the respondent from neglect, exploitation, or abuse; the
24 actions needed to be taken by the guardian or conservator; and the suitability of the proposed guardian
25 or conservator.26 If, after considering the evidence presented at the hearing, the court or jury determines on the basis
27 of clear and convincing evidence that the respondent is incapacitated and in need of a guardian or
28 conservator, the court shall appoint a suitable person, *who may be the spouse of the respondent*, to be
29 the guardian or the conservator or both, giving due deference to the wishes of the respondent.30 The court in its order shall make specific findings of fact and conclusions of law in support of each
31 provision of any orders entered.

ENROLLED

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